

SECURITIES AND EXCHANGE COMMISSION

FORM SC 13D/A

Schedule filed to report acquisition of beneficial ownership of 5% or more of a class of equity securities [amend]

Filing Date: **2023-08-14**
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([HTML Version](#) on secdatabase.com)

SUBJECT COMPANY

Evolus, Inc.

CIK: **1570562** | IRS No.: **461385614** | State of Incorporation: **DE** | Fiscal Year End: **1231**
Type: **SC 13D/A** | Act: **34** | File No.: **005-90861** | Film No.: **231169775**
SIC: **2834** Pharmaceutical preparations

Mailing Address	Business Address
520 NEWPORT CENTER DRIVE SUITE 1200 NEWPORT BEACH CA 92660	520 NEWPORT CENTER DRIVE SUITE 1200 NEWPORT BEACH CA 92660 (949) 284-4555

FILED BY

Alphaeon 1 LLC

CIK: **1799102** | IRS No.: **844118308** | State of Incorporation: **DE** | Fiscal Year End: **1231**
Type: **SC 13D/A**

Mailing Address	Business Address
4040 MACARTHUR BOULEVARD, SUITE 310 NEWPORT BEACH CA 92660	4040 MACARTHUR BOULEVARD, SUITE 310 NEWPORT BEACH CA 92660 (949) 260-1700

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 13D/A

INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT
TO RULE 13d-1(a) AND AMENDMENTS THERETO FILED PURSUANT TO
RULE 13d-2(a)

Under the Securities Exchange Act of 1934
(Amendment No. 3)*

Evolus, Inc.

(Name of Issuer)

Common Stock, \$0.00001 par value per share

(Title of Class of Securities)

30052C107

(CUSIP Number)

Robert Grant

Alphaeon 1 LLC

4040 MacArthur Boulevard, Suite 310

Newport Beach, CA 92660

(949) 260-1700

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

February 17, 2023

(Date of Event Which Requires Filing of This Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§ 240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box.

NOTE: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See § 240.13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a person's initial filing on this form with respect to subject class of securities, and for any subsequent amendment containing information which would alter disclosures in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

1	NAME OF REPORTING PERSON Alphaeon 1 LLC
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>
3	SEC USE ONLY
4	SOURCE OF FUNDS OO
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDING IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) <input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION Delaware

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER 0
	8	SHARED VOTING POWER 0
	9	SOLE DISPOSITIVE POWER 0
	10	SHARED DISPOSITIVE POWER 0

11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH PERSON 0
12	CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) (see Item 5) 0%
14	TYPE OF REPORTING PERSON OO

| |

This amendment (“Amendment No. 3”) amends the Schedule 13D originally filed with the Securities and Exchange Commission (the “SEC”) on January 17, 2020, as subsequently amended by Amendment No. 1 filed on September 20, 2021, and Amendment No. 2 filed on September 27, 2021 (collectively, the “Schedule 13D”), to report and reflect a reduction in the Reporting Person’s beneficial ownership of the Issuer’s common stock following sales of such stock as reported herein. All capitalized terms contained herein but not otherwise defined shall have the meanings ascribed to such terms in the Schedule 13D.

Item 2. IDENTITY AND BACKGROUND.

Item 2(a) is amended and restated as follows:

(a) This Amendment No. 3 to statement on Schedule 13D is filed by Alphaeon 1 LLC, a Delaware limited liability company (the “Reporting Person”). Neither the fact of this filing nor anything contained herein shall be deemed to be an admission by the Reporting Person that it and certain other persons constitute a “group.” An updated Schedule A attached to this Amendment No. 3 sets forth the information required by Instruction C of the instructions to Schedule 13D.

Item 4. PURPOSE OF TRANSACTION.

Item 4 is amended and supplemented as follows:

Effective August 4, 2023, the Reporting Person distributed 1,422,202 of the Contributed Shares to its members, and effective August 11, 2023, the Reporting Person distributed the balance of the Contributed Shares to its members (together, the “Distributions”), in each case in accordance with the Reporting Person’s Limited Liability Company Agreement, the Warrant Agreements, the Contingent Warrants and AEON’s certificate of incorporation, as amended.

Except as set forth herein, the Reporting Person currently has no present plans or proposals which would be related to or would result in any of the matters described in Items 4(a)-(j) of the Instructions to Schedule 13D.

Item 5. INTEREST IN SECURITIES OF THE COMPANY.

Item 5 is amended and restated as follows:

(a) Following the Distributions, the Reporting Person does not beneficially own any shares of Common Stock of the Issuer.

(b) Following the Distributions, the Reporting Person does not beneficially own any shares of Common Stock of the Issuer.

(c) The Reporting Person has affected the following transactions in the Common Stock of the Issuer since the filing of Amendment No. 2:

On February 17, 2023, the Reporting Person sold an aggregate of 1,850,000 shares of the Common Stock of the Issuer in an open-market sale transaction at a weighted average price of \$8.40 per share.

Between May 9, 2023 and May 23, 2023, the Reporting Person sold an aggregate of 295,279 shares of Common Stock of the Issuer in open market sales transactions on the following dates at the following prices:

- On May 9, 2023, the Reporting Person sold 100,000 shares for \$9.13 per share;
- On May 10, 2023, the Reporting Person sold 111,521 shares for \$9.61 per share;
- On May 15, 2023, the Reporting Person sold 43,479 shares for \$10.27 per share;
- On May 16, 2023, the Reporting Person sold 3,223 shares for \$10.04 per share;
- On May 18, 2023, the Reporting Person sold 4,328 shares for \$10.01 per share; and
- On May 23, 2023, the Reporting Person sold 32,728 shares for \$10.17 per share.

Between June 9, 2023 and June 12, 2023, the Reporting Person sold an aggregate of 2,308,493 shares of Common Stock of the Issuer in open market sales transactions on the following dates at the following prices:

- On June 9, 2023, the Reporting Person sold 2,064,644 shares for \$7.59 per share; and
- On June 12, 2023, the Reporting Person sold 243,849 shares for \$8.23 per share.

On July 27, 2023, the Reporting Person sold 50,000 shares of Common Stock of the Issuer in open-market sales transactions at a weighted average price of \$9.98 per share.

On July 21, 2023, AEON completed a business combination with Priveterra Acquisition Corp., a special purpose acquisition company, triggering the Distributions.

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(d) Except as set forth in Item 4, no person (other than the Reporting Person) is known to have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, the shares of Common Stock. However, the members of the Reporting Person have the right to participate in the receipt of dividends from, and in the proceeds from the sale of, the shares of Common Stock in accordance with their respective membership interests and rights in the Reporting Person.

(e) The Reporting Person ceased to be the beneficial owner of more than five percent of the class of securities effective June 9, 2023.

Item 6. CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO SECURITIES OF THE ISSUER.

Item 6 is amended and supplemented as follows:

Effective on or about April 24, 2023, the Reporting Person entered into a First Amendment to Warrant Agreement with the Noteholders modifying among other things the triggers and conversion terms for exercise of the Contingent Warrants.

Item 7. MATERIAL TO BE FILED AS EXHIBITS.

Item 7 is amended and supplemented as follows:

Exhibit 1*	Form of First Amendment to Warrant Agreement, by and between Alphaeon 1 LLC and each of the Noteholders.
Exhibit 24	Power of Attorney of Alphaeon 1 LLC

- * Portions of this exhibit have been omitted pursuant to Item 601(b)(10)(iv) of Regulation S-K because it is both not material and is the type that the registrant treats as private or confidential.

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SIGNATURES

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: August 14, 2023

ALPHAEON 1 LLC

By: /s/ Andrew Lusk

Name: Andrew Lusk

Title: Attorney-in-Fact for Robert E. Grant,
Chairman of the Board of Managers

Schedule A

The following sets forth the name, position, address, principal occupation and citizenship or jurisdiction of each manager and executive officer of the Reporting Person (the "Instruction C Persons"). To the best of the Reporting Person's knowledge, (i) none of the Instruction C Persons during the last five years has been convicted in a criminal proceeding (excluding traffic violations or other similar misdemeanors) or been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws and (ii) none of the Instruction C Persons owns any shares of Common Stock or is party to any contract or agreement as would require disclosure in this Amendment No. 3 to Schedule 13D except as otherwise disclosed herein.

Alphaeon 1 LLC

<i>Name</i>	<i>Title or Relationship with Reporting Person</i>	<i>Principal Occupation or Employment</i>	<i>Citizenship or Jurisdiction of Organization</i>	<i>Business Address</i>
Robert Grant	Manager	Chairman	United States	c/o Alphaeon 1 LLC, 4040 MacArthur Boulevard, Suite 310, Newport Beach, CA 92660
Darren O'Brien	Manager	Managing Director, Sailing Capital Advisors (Hong Kong) Limited	United States	Unit 2006-08, 20/F, Harbour Centre, 25 Harbour Road, Wan Chai, Hong Kong
Jost Fischer	Manager	Investor	Germany	c/o Alphaeon 1 LLC, 4040 MacArthur Boulevard, Suite 310, Newport Beach, CA 92660

* Portions of this exhibit have been excluded because it both (i) is not material and (ii) would be competitively harmful if publicly disclosed.

**FIRST AMENDMENT to
WARRANT AGREEMENT**

This FIRST AMENDMENT (the “**First Amendment**”) to that certain WARRANT AGREEMENT (the “**Agreement**”), dated as of January 8, 2020, by and between ALPHAEON 1 LLC (the “**Company**”), a Delaware limited liability company and _____, as holder (the “**Holder**”) is made and entered into as of April 24, 2023 (the “**Effective Date**”), by and among the Company and Holder. Capitalized words used herein but not defined herein have the respective meanings ascribed to them in the Agreement.

RECITALS

WHEREAS, the parties entered into the Agreement on January 8, 2020, whereby Company issued the Warrants to _____;

WHEREAS, concurrently herewith, Parent, Priveterra Acquisition Corp., a Delaware corporation (“**Acquiror**”) and Priveterra Merger Sub, Inc., a Delaware corporation and direct, wholly owned subsidiary of Acquiror (“**Merger Sub**”) are entering into a Business Combination Agreement (as amended, supplemented, restated or otherwise modified from time to time, the “**Business Combination Agreement**”), pursuant to which (and subject to the terms and conditions set forth therein) Merger Sub will merge with and into the Parent (the “**Merger**”), with the Parent being the surviving corporation of the Merger;

WHEREAS, the parties hereto acknowledge that the Merger may not represents a Qualifying Listing as defined in the Agreement. The parties, however, believe it would be equitable to amend the Agreement to expand the definition of Qualifying Listing to include the Merger;

WHEREAS, as consideration for such modification, the parties wish to amend the Agreement hereby to give Holder the reduced entitlement to exercise and receive a maximum of eighty-five percent (85%) of the Warrant Shares that Holder would otherwise have been entitled to receive as a result of a Qualified Listing under the Agreement;

WHEREAS, to confirm and clarify how the Holder may exercise the Warrants, the parties propose to amend certain provisions of the Agreement as set forth herein; and

WHEREAS, in addition to the above, the Holder wishes to exercise its Warrants to the maximum extent allowable pursuant to the Merger and wishes to hereby give notice of such exercise.

AGREEMENT

NOW, THEREFORE, the parties hereby agree as follows:

1. Amendments to the Agreement. As of the Effective Date, the Agreement is hereby amended or modified as follows:

- a. The definition of “Aggregate Parent Pre-Money Valuation” in Section 1 is hereby amended and restated in its entirety as follows:

“**Aggregate Parent Pre-Money Valuation**” means \$[***].”

- b. The definition of “Aggregate Listco Amount” in Section 1 is hereby amended and restated in its entirety as follows:

“**Aggregate Listco Amount**” means (1) the product of (a) the aggregate number of shares of Common Stock of Listco beneficially owned by the Company as of the date of the First Amendment multiplied by (b) the Market Value of such Common Stock as of the date of the First Amendment, plus (2) the total value of the indebtedness owed by Parent to the Company pursuant to various convertible promissory notes, plus (3) the Company’s cash balance.”

- c. The definition of “Qualifying Listing” in Section 1 is hereby amended and restated in its entirety as follows:

“**Qualifying Listing**” means the Parent’s first underwritten public offering of its common stock under the Securities Act or a reverse merger or similar transaction which causes Parent’s common stock, after such transaction, to trade on a Trading Market.”

- d. The definition of “Warrant Shares” in Section 1 is hereby amended and restated in its entirety as follows:

“**Warrant Shares**” means the Common Stock issued (or to be issued) on exercise of the Warrants, being equal in number to the number of shares of Common Stock equal to the quotient obtained by dividing (x) the aggregate Payment Amount of Promissory Notes tendered by the Holder to the Company by (y) the Exercise Price; provided, however, that in the event of a Qualifying Listing, the Payment Amount of Promissory Notes tendered by any Holder, as a percentage of the aggregate Payment Amount of Promissory Notes held by such Holder shall not exceed *eighty-five percent (85%)* of the proportion that the Aggregate Listco Amount bears to the sum of (a) the Aggregate Listco Amount plus (b) the Aggregate Parent Pre-Money Valuation plus (c) the most recent valuation of Alphaeon Credit, Inc., a Delaware corporation, as determined by a third-party 409A valuation plus (d) the valuation of Zelegant, Inc., a Delaware corporation as determined by its board of directors multiplied by the percentage ownership that Zelegant HoldCo LLC, a Delaware limited liability company, owns in Zelegant, Inc., on an as-converted basis. For the avoidance of doubt, and by way of illustration only, if the Aggregate Listco Amount is equal to \$200 million, the Aggregate Parent Pre-Money Valuation is equal to \$300 million, the Alphaeon Credit, Inc. valuation is \$100 million and the Zelegant Inc. valuation is \$0, then the maximum percentage of the aggregate Payment Amount of Promissory Notes that can be tendered by an holder for exercise into Warrant Shares shall not exceed *eight-five percent (85.0%)* of the proportion that \$200 million bears to \$600 million, i.e., *85% of 33.3%, which is equivalent to 28.3%*.

- e. The definition of “Exercise Period” in Section 3(a) is hereby amended as follows:

“Subject to the terms of this Agreement (including the holder’s timely receipt of the Exercise Event Notice), each holder of Warrants shall have the right, which may be exercised only (x) during the period commencing on the date of the Exercise Event Notice and until 5:00 p.m., New York time, on the date that is ten (10) calendar days after the date of the Exercise Event Notice or (y) upon an Event of Default (either event being the “**Exercise Period**”, which, for the avoidance of doubt, shall include the right of holders of Warrants to exercise their Warrants in order to sell the Warrant shares in connection with such Exercise Event) . . .”

2. **Contingent Exercise.** Notwithstanding anything to the contrary in the Agreement, the parties hereby agree that the Holder, as a result of the Merger now falling within the amended definition of Qualifying Listing, has the contingent right to exercise its Warrants pursuant to the terms hereof. The Holder hereby waives, and the Company accepts its waiver of, its right to receipt of an Exercise Event Notice. Holder hereby gives notice of its election to exercise its Warrants contingent upon and contemporaneous with the date of the close of the Merger. Such exercise shall be pursuant to the following terms, which the Company agrees and accepts:

- a. Given the amendments in Section 1 above and the date of this Amendment, the Market Value for each share of Common Stock for purposes of calculating the Aggregate Listco Amount shall be equal to \$[***]. Utilizing this Market Value, the Company holds \$[***] in Common Stock ([***] shares). In addition, the Company holds \$[***] of convertible notes in the Parent as well as a cash balance of approximately \$[***]. Therefore, the Aggregate Listco Amount is \$[***].
- b. The latest 409A valuation of Alphaeon Credit, Inc., is \$[***] million and the valuation of Zelegant, Inc. as determined by its board of directors is \$[***]. Therefore, the Payment Amount of Promissory Notes tendered by the Holder, as a percentage of the aggregate Payment Amount of Promissory Notes held by the Holder **shall not exceed twenty-one and one tenths percent (21.1%)**, which constitutes eighty-five percent (85%) of twenty-four and eight tenths percent (24.8%) (the proportion that \$[***] million bears to the sum of \$[***] million, \$[***] million, \$[***] million and \$[***]).
- c. The Holder hereby gives notice of its election to exercise its Warrants into Warrant Shares **representing twenty-one and one tenths percent (21.1%) of the Payment Amount of Holder's Promissory Notes** pursuant to the Cashless Exercise Ratio to be calculated upon the date of the close of the Merger.
- d. Upon exercise of the Warrants into Warrant Shares on the date of the close of the Merger, twenty-one and one tenths percent (21.1%) of the Payment Amount of the Holder's Promissory Notes shall be considered paid by the Company and a corresponding portion of the indebtedness owed by Parent to Holder pursuant to such Promissory Notes shall be unconditionally and irrevocably cancelled.
- e. Between the date hereof and the close of the Merger, Holder will provide to the Company any reasonably requested information necessary to effectuate the transfer of the Warrant Shares and any associated fractional interest.

3. Reversion. The parties expressly agree that, should the Promissory Notes be repaid in full in cash prior to the consummation of the Merger or should the Merger be otherwise abandoned, then the Amendments hereto to the Agreement shall be null and void and the pre-existing terms of the Agreement shall be in full force and effect (the "**Reversion**").

4. Effect of Amendments. Except as expressly set forth in this First Amendment, the terms and provisions of the Agreement are ratified and confirmed and shall continue in full force and effect. From and after the date hereof and until such time as a Reversion occurs pursuant to Section 2, any references to the Agreement shall mean the Agreement as amended hereby.

5. Fees and Expenses. Each party shall bear its own legal fees and expenses incurred in the preparation, negotiation and execution of this First Amendment.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties have executed this First Amendment on the Effective Date.

The Company:
ALPHAEON 1 LLC

By: _____
Name: Rick Taketa
Title: Chair of the Board of Managers

Holder:

By: _____

Name: _____

Title: _____

Signature Page to First Amendment to the Warrant Agreement

POWER OF ATTORNEY

The undersigned hereby constitutes and appoints Andrew Lusk, and Jared Klumker or either of them signing individually, the undersigned's true and lawful attorney-in-fact (each, an "Attorney-in-Fact") to:

- (1) complete and execute, for and on behalf of the undersigned, in the undersigned's capacity as a beneficial owner of more than ten percent (10%) of any equity securities of Evolus, Inc., a Delaware corporation (the "Company"), Forms 3, 4 and 5, and Schedules 13D and 13G, and such other forms and documents, including any amendments to any of the foregoing, as such Attorney-In-Fact shall in his or her discretion determine to be required or advisable pursuant to Section 16(a) and Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and the rules and regulations promulgated thereunder, or any successor laws and regulations, as a consequence of, or in respect of, the undersigned's ownership, acquisition or disposition of securities of the Company;
- (2) do and perform any and all acts for and on behalf of the undersigned which may be necessary or desirable to complete and execute any such forms and schedules, including any amendments thereto, and timely file such forms and schedules, including any amendments thereto, with the United States Securities and Exchange Commission (the "SEC"), and any securities exchange or similar authority; and
- (3) take any other action of any type whatsoever in connection with the foregoing which, in the opinion of such Attorney-in-Fact, may be of benefit to, in the best interest of, or legally required by, the undersigned, it being understood that the documents executed by such Attorney-in-Fact on behalf of the undersigned pursuant to this Power of Attorney shall be in such form and shall contain such information as such Attorney-in-Fact may approve in such Attorney-in-Fact's discretion.

The undersigned hereby grants to each such Attorney-in-Fact full power and authority to do and perform each and every act and thing whatsoever requisite, necessary or proper to be done in the exercise of any of the rights and powers herein granted, as fully to all intents and purposes as the undersigned might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that each such Attorney-in-Fact, or each such Attorney-in-Fact's substitute or substitutes, shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted. The undersigned acknowledges that each of the foregoing Attorneys-in-Fact, in serving in such capacity at the request of the undersigned, are not assuming, nor is the Company assuming, any of the undersigned's responsibilities to comply with Section 16(a) and Section 13(d) of the Exchange Act.

The undersigned agrees that each such Attorney-in-Fact may rely entirely on information furnished orally or in writing by the undersigned to each such Attorney-in-Fact. The undersigned also agrees to indemnify and hold harmless the Company and each such Attorney-in-Fact against any losses, claims, damages or liabilities (or actions in these respects) that arise out of or are based on any untrue statement or omission of necessary facts in the information provided by the undersigned to such Attorney-in-Fact for purposes of executing, acknowledging, delivering and filing Forms 3, 4 and 5, and Schedules 13D and 13G, including any amendments thereto, and agrees to reimburse the Company and each such Attorney-in-Fact for any legal or other expenses reasonably incurred in connection with investigating or defending against any such loss, claim, damage, liability or action.

This Power of Attorney shall remain in full force and effect until the undersigned is no longer required to file Forms 3, 4 and 5, or Schedules 13D and 13G, with respect to the undersigned's holdings of and transactions in securities issued by the Company, unless earlier revoked by the undersigned in a signed writing delivered to the foregoing Attorneys-in-Fact.

IN WITNESS WHEREOF, the undersigned has caused this Power of Attorney to be executed as of this 24th day of July, 2023.

ALPHAEON 1, LLC

By: /s/ Robert E. Grant

Robert E. Grant, Chair of the Board of
Managers